The Western Sugar Private Limited in village Mathura, in the district of Kalahandi, Orissa is not observing the norms of the Sugar Cane Policy. It has not paid the payments to the farmers. Only 25 to 35 per cent of loan was given and no advances were made available to the farmers. Due to lack of sufficient money, the entire sugar can cultivation got affected badly. The transportation facilities for the sugar cane were not provided to the farmers in time. As a result, the farmers of the district are forced to bear the heavy losses. The people from outside the area were given employment by the Western Sugar Private Limited at Mathura in Kalahandi District but the local unemployed youths were totally neglected. The rehabilitation rules are also not followed properly. The affected workers and the local unemployed are agitating severely. Therefore, I would request the Government of India to intervene in the matter and ensure right payment to the farmers and employment to the local people of Kalahandi.

(vi) Need to provide better communication facilities in Jodhpur, Rajasthan

[Translation]

SHRI ASHOK GEHLOT (Jodhpur) : District Jodhpur is a prominent industrial, trading and tourist centre on the western border of Rajasthan. It is essential to improve the telecommunications and postal services in this important city. For this purpose an already sanctioned 25,000 line telephone exchange be set up at the earliest so that the Telephone waiting list in the city is eliminated. The cables should be laid in the entire city to meet in requirements of the telephone exchanges. The telephones should be shifted on request within a week and the fault should be repaired within 24 hours.

The residents of the rural areas are no getting the full benefit of the telecommunication services. In most of the villages, radio telephones P.C.O.S. and P.C.O.S operated by cable telephones are out of order. The telephone traffic is on the increase in tehsil headquarters, tehsils and villages but the present number of lines are insufficient to cope with the traffic, and on top of it they are most of the time out of order. In order to improve the services in the rural areas, it is essential to increase the number of line, and the strength of the staff.

I would, therefore, request the Centre to take necessary steps.

(vii) Need to constitute a Regional Development Board in the Diyara area, Bihar

SHRI RAMENDRA KUMAR (Begusarai) : Mr. Deputy Speaker, Sir, about 20 lakh hectare land in Bihar and U.P. falls in the Diyara area, which creates social, economic and law and order problems there. The people residing in the Diyara area have to face to the drought and the floods.

In the Lakhisarai district of Bihar, about 1 lakh population residing in the Diyara area remains cut of from the other parts of the country for four months due to rains and floods. There are neither roads nor bridges in the Diyara area and as such it lacks means of communications.

I, therefore, urge the Government to set up a diyara area development board to undertake development of the diyara area.

13.51 hrs.

STATUTORY RESOLUTION RE: DISAPPROVAL OF ARBITRATION AND CONCILIATION (THIRD) ORDINANCE

AND

ARBITRATION AND CONCILIATION BILL

[English]

MR. CHAIRMAN : Now we shall go to item Nos. 20 and 21. The Minister has already replied. Now Shri Guman Mal Lodha is to reply and I hope that he will be very brief today.

[Translation]

PROF. RASA SINGH RAWAT (Ajmer) : What happened to yesterday's clarification?

[English]

MR. CHAIRMAN : Yesterday he spoke a lot and, therefore, we had to keep late at night.

JUSTICE GUMAN MAL LODHA (Pali) : Let him clarify that position, Sir.

THE MINISTER OF STATE OF THE DEPARTMENT OF LEGAL AFFAIRS, LEGISLATIVE DEPARTMENT AND DEPARTMENT OF JUSTICE (SHRI RAMAKANT D. KHALAP) : I shall clarify the position, Sir.

MR. CHAIRMAN : Okay, The Minister will clarify the position and then I think Lodhaji will withdraw his Statutory Resolution.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF TOURISM (SHRI SRIKANT JENA) : Sir, my only request is that 2.30 P.M. we have fixed for discussion on CTBT. That is why I would request the House that this Bill should be passed immediately because we have spent a lot of time on this. Today morning also, the Law Minister met all the leaders. Therefore, we should pass it without any delay.

SHRI RAMAKANT D. KHALAP : Sir, yesterday we had quite a marathon arguments on the provisions of clause 13, sub-clause (5) and clause 34 of the Arbitration and Conciliation Bill. The whole controversy

was with regard to clause 13(5) which speaks about challenging the arbitrator on certain grounds, and clause 34 which speaks about the recourse to challenging an arbitral award which has been-finally passed. I have said it that these two provisions are independent provisions.

Clause 13(5) says that if we challenge an arbitrator at any stage, the arbitration proceedings will proceed it that challenge is not successful, at the end of it, the arbitral award can be challenged under clause 13(5). This was made very clear. Under Clause 34, it is very clearly stated. An objection was taken to the world 'only' where it is stated that recourse of a court against arbitral award may be made only by an application for meeting aside such award in accordance with sub-section (2). The world 'only' very clearly refers that the method by which you can take a recourse is by the procedure mentioned in clause 34 and not by any other method. That means one cannot file any suit in any court to challenge this, one cannot file any writ petition to challenge it, and one cannot take any other procedure which may be allowed under any other procedural law. It can be done only by an application as provided under clause 34. These two sections are very complete in their own respect. A clear reading of these two clauses makes it very clear that there is absolutely no ambiguity whatsoever. One clause dues not superimpose upon the other and, in no way, the rights of a party to a dispute before the arbitrator is effected on account of these two clauses. This was my point which I put forward and I stuck to it also. But learned Justice Lodhaji and hon. Shri Fernandes could not agree with this position and they even demanded that the Attornay General be requested to come to the House and give a statement.

Today morning I had a discussion with the Attorney General and I am glad to say that he also agrees with the viewpoint that I put forward yesterday, and I have conveyed it to the hon. Members in today's meeting. In addition, I have said that presuming that I go worng, presuming that even the Attorney General goes wrong - because finally these are opinions - and if at all in any proceedings later on it is found that an amendment to the Act is required, then prevents us, and I undertake here that such an amendment would be brought before the House. If the House is in Session, we will come with an Amendment Bill and if the House is not in Session, we will come with an Ordinance.

It is necessary to pass this Bill at this stage because Rajya Sabha has already considered this and passed it. If we do not pass it today it goes back to the Rajya Sabha. Today is the last day of this part of the Session. There is an Ordinance which will lapse after some time. There are hundreds and thousands of matters pending all over India. The fate of all the petitions will hang in balance if this is not passed.

Therefore, I appeal to both Justice Lodha and Shri George Fernandes and others to kindly cooperate with the Government in passing this Bill today so that it becomes a law very soon and the problem is solved. Sir, I must thank the hon. Members for the erudite manner in which the arguments are carried forward yesterday during the debate. I thank particularly Justice Lodha for the wisdom which he expressed yesterday while speaking on this. At the end of the debate I am personally very happy and I feel very much that I am convinced by the opinion of my learned colleagues in this House.

MR. CHAIRMAN : Shri Lodha, I hope you will reciprocate.

JUSTICE GUMAN MAL LODHA : I would Sir. I would reciprocate with all the warmth and respect which the hon. Minister of Law commands because he has given an undertaking on the floor of the House that if two interpretations are possible then for a harmonious construction he will bring and amendment. I talked to him in the morning. Normally judges would certainly like to interpret it so as to give the right to challenge under Section 34. But it is once a while and it all depends. Then they would come out with a legislation. So, normally, he may satisfy that point so far as that is concerned. We need not go into it. I am happy that the Attorney General has been consulted. He should be consulted sometimes whenever there is an anomaly or such a situation arises.

That being so, that matter stands dissolved and we need not pursue it any further. We reciprocate it. We accept the undertaking given by the hon. Minister.

I have moved a resolution. That resolution was that while basically for the purposes of deprecating the tendency of Ordinance-making power is being misused off and on and so casually and without any seriousness and it has become just like a routine matter. Eleven ordinances have come in these last few days. I feel that the time has come when the hon. Minister of Law and the Government - particularly when the Minister of Law and Shri Chidambaram, who has been a very senior lawyer and eminent jurist is here - should know as to what the scope of the Ordinance-making power is. We can understand the politicians normally doing it. But every time this Ordinance comes' the first Ordinance, the second Ordinance and the third Ordinance and then we are told that : 'Now, look here; the Rajya Sabha is going out of session and we are in a haste and you pass it'.

Well, here it is not that the people who come here representing 15 or 20 lakh people in every constituency to put a rubber seal just like deaf and dumb spectators. They apply their mind. They suggest to you something. You may accept that or you many reject that. But objectively they must do something to apply their mind. Primarily this Parliament is a legislative body. Unfortunately, I am constrained to say that, even though we are a legislative body, hardly twenty per cent of the time is utilised in legislation actually. All other things are being given importance. For actual legislation,

nobody is allowed even to read it. For such a reading of the sections and understanding them and knowing about the implications of it, that exercise requires time. Therefore, I would submit that the Ordinance-making power should not be misused.

I would also submit that when this debate was going on some sort of — I cannot use the word aspersions — reflections were made on the judiciary. It was said : 'Look here, the judiciary is having so many areas and people go to them and they do not decide the cases'. We have to understand the density of litigation. That is to be considered and we cannot cope with the number of judges. The infrastructure of the courts and the various staff which is required in comparison to the litigation which has increased, is less.

One should not forget that before Articles 226 and 32 were taken in the Constitution there was no such litigation as writ petitions.

14.00 hrs.

There used to be only civil cases, revenue cases or criminal cases. Now the dimensions are very large and the horizons are so high that all types of litigations are coming to the courts. For example, if a person does not get a locker in the bank, he goes to the High Court and files a writ petition that he must get a locker. He also pleads that why should they insist for fixed deposits. Now, every matter is being taken there. Therefore, we should not criticize the judiciary. After all, ours is a poor country and we cannot afford that type of infrastructure. So, how can we compete with them? Just in the Zero Hour people were talking that we have not obtained even one gold medal. There is zero achievement in athletics. I would like to tell my friends that judiciary also requires a lot of patronage, assistance, financial autonomy and help from the Government if they have to cope with the flood of litigations.

MR. CHAIRMAN : There will be occasions to discuss all these things.

[Translation]

SHRI RAMENDRA KUMAR (Begusarai) : What is the subject matter of the speech.

[English]

JUSTICE GUMAN MAL LODHA : Sir, I think the hon. Member was absent as he is not aware what was being discussed in the debate. This was talked about in this debate itself and that is why, I have made a mention. Therefore, I would submit that so far as this Bill regarding national disputes is concerned, it is the old wine in a new bottle. There is nothing new because it follows the same process, namely, reference to the court, the court taking objections. Then first is the appeal going to the civil courts and then the SLP going to the Supreme Court. so, all these procedures are there. It has not be cut short. The time consumed would be the same. But nonetheless the conciliation proceedings are good and I must congratulate the Laws Minister that he has introduced the conciliation proceedings. It is a new thing. It is novelty and such novelty is required. Just like when I was the Chief Justice, we introduced Lok Adalats. These Lok Adalats are nothing but conciliation proceedings. I would request the hon. Law Minister to kindly introduce these proceedings - which are another sort of Lok Adalats - by a statutory amendment in the lower courts also so that by these conciliation proceedings we could solve the disputes. These disputes could be resolved by the respectful persons of the locality sitting together and these technicalities of taking evidence, court's examination, pleadings, etc. all are done away with. so, if the Lok Adalats are introduced it would be a very good thing.

I very much appreciate the spirit of conciliation. With these words in view of all that has been said, I beg the permission of the House to withdraw my resolution.

MR. CHAIRMAN : Is it the pleasure of the House that the amendment moved by Justice Guman Mal Lodha be withdrawn?

The resolution was, by leave, withdrawn.

SHRI RAMAKANT D. KHALAP : Sir, I have a small explanation to make. Sir, yesterday in the course of the debate I was asked about the number of countries which have adopted this law. Initially I gave the information which I had to correct later on. But today I have to once again make amends to the statement which I made because we have obtained certain information from the United Nations itself. It says that the number of countries who have adopted it is not 40 as the number was given yesterday. There are less number of countries.

The legislation based on UNCITRAL has been enacted in Australia, Bahrain, Bermuda, Bulgaria, Canada and by he Federal Parliament and by the Legislatures of all Provinces and Territories - Cyprus, Egypt, Finland, Guatemala, Hong Kong, Hungary, India - they have mentioned India because the Ordinance was already issued - Kenya, Malta, Mexico, Nigeria, Peru, Russian Federation, Scotland, Singapore, Sri Lanka, Tunisia, Ukraine and within the United States of America - California, Connecticut, Oregon, Texas.

In addition, I also have a statement which was provided to the Committee in which it has been stated that the countries which have adopted the legislation based on UNICTRAL Model Law are Australia, Bahrain, Bermuda, Bulgaria, Canada (by the Federal Parliament and by the Legislatures of all provincial Territories), Cyprus, Egypt, Finland, Hong Kong, Hungary, Mexico, Nigeria, Peru, Russian Federation, Scotland, Singapore and the United States of America, California, Connecticut, Oregon and Texas. It was also stated that the number of countries actively considering such a legislation included Chile, Germany, Kenya, Malta, New Zealand and Zimbabwe.

The second question was regarding the countries which have adopted this Model Law for their domestic conciliation and arbitration. I have a presentation on the draft Swedish Arbitration Act and they have stated here, at page seven, that this Act shall apply equally to domestic and international arbitrations. Similarly, I have this Netherlands Act and at page one itself it states that the Dutch Legislature did not consider it necessary to provide for a separate law dealing with international arbitration, and it was felt that the well-conceived regulations for domestic arbitration would be equally appropriate for international arbitration. So, they have adopted one single place of legislation both for domestic as well as for international arbitration.

These are the explanations that I would like to give, so far as that provision is concerned and, to that extent, I beg to be corrected in so far as the statement which I gave yesterday is concerned.

MR. CHAIRMAN : The question is :

"That the Bill to consolidate and amend the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards as also to define the law relating to conciliation and for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN : The House will now take up clause by clause consideration of the Bill.

Clause 2 to 33

MR. CHAIRMAN : The question is :

"That clauses 2 to 33 stand part of the Bill.

The motion was adopted.

Clauses 2 to 33 were added to the Bill.

MR. CHAIRMAN : Shri Banatwalla, would you like to move your amendment to clause 34?

SHRI G.M. BANATWALLA (Ponnani) : Sir, in deference to the wishes of the hon. Minister, I do not propose to move the amendment.

SHRI RAMAKANT D. KHALAP : Sir, i am grateful to Shri Banatwalla.

MR. CHAIRMAN : The question is:

"That clauses 34 to 86 stand part of the Bill."

The motion was adopted.

Clauses 34 to 86 were added to the Bill.

MR. CHAIRMAN : The question is :

"That the First Schedule stand part of the Bill."

The motion was adopted.

The First Schedule was added to the Bill.

MR. CHAIRMAN : The question is :

"That second schedule and the Third schedule stand part of the Bill."

The motion was adopted.

The Second Scheduled and the Third Schedule were added to the Bill.

MR. CHAIRMAN : The question is :

"That clause 1, the Enacting formula, the Preamble and the Title stand part of the Bill."

The motion was adopted.

Clause 1, the Enacting Formula, the Preamble and the Title were added to the Bill.

SHRI RAMAKANT D. KHALAP : Sir, I beg to move:

"That the Bill be passed."

MR. CHAIRMAN : The question is :

"That the Bill be passed."

The motion was adopted

14.10 hrs.

STATUTORY RESOLUTION RE : DISAPPROVAL OF EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS (AMENDMENT) THIRD ORDINANCE, 1996

AND

EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS (AMENDMENT) BILL

[English]

MR. CHAIRMAN : The House will take up Item No. 22 and 23.

The House will take up the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill, 1996, as passed by the Rajya Sabha.

I have to inform the House that the President has, in pursuance of Clause 3 of Article 117 of the Constitution of India, recommended to Lok Sabha the consideration of the Bill and passed by the Rajya Sabha.

Prof. Prem Singh Chandumajra - not present.

Shri Girdhari Lal Bhargava.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : I rise to oppose the tendency of the Government to promulgate ordinances and not the provisions of the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill. Prior to this session 11 ordinances were promulgated, some of which are either paneling in Lok Sabha or the Rajya Sabha. My submission is